

**DAIRY COMPANIES ASSOCIATION OF NEW ZEALAND**  
**SUBMISSION TO THE FOREIGN AFFAIRS AND DEFENCE SELECT**  
**COMMITTEE**  
**ON THE INTERNATIONAL TREATY EXAMINATION OF THE EU-NZ**  
**FREE TRADE AGREEMENT**

**28 July 2023**

## **1. Summary**

- 1.1 The Dairy Companies Association of New Zealand (DCANZ) appreciates the opportunity to make a submission on the Foreign Affairs and Defence Select Committee (FADC) international treaty examination of the EU-NZ Free Trade Agreement.
- 1.2 In summary, DCANZ:
- recognises the significant efforts of New Zealand trade negotiators over many years to secure and progress a negotiation with the EU;
  - acknowledges the tariff-free trade achieved via the agreement for sectors including kiwifruit honey, seafood, wine, and onions;
  - continues to be disappointed that a similar quality of outcome was not achieved for dairy as New Zealand’s largest goods exporting sector;
  - notes that the EU dairy market overall will remain largely closed to New Zealand dairy exporters following full implementation of the agreement, with:
    - butter, anhydrous milk fat (AMF), cheese, and milk powders, which delivered 25% of New Zealand goods export earnings in the year to May 2023<sup>1</sup> falling within the 3% of EU tariff lines that are excluded from tariff elimination outcomes (along with many high protein products);
    - zero duty-free access for butter, AMF, or milk powder, despite these products delivering 21% of New Zealand’s goods export earnings in the year to May 2023<sup>2</sup>;
    - a continued tariff disadvantage for New Zealand exporters relative to EU producers and exporters from the UK that will present a hurdle to utilisation of the quota volumes;
    - the milk powder quota volume equating to just 1.3% of the EU milk powder market and a far lower percentage of the market for whole milk solids (either in liquid or powdered form);
    - the lowest tariff and most potentially usable portion of the milkfat (butter and AMF) quotas<sup>3</sup> equating to 1.7% of the EU market;

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<sup>1</sup> New Zealand exported \$18.422 billion of milk powder, butter, AMF, and cheese products under HS Headings 0402, 0405, and 0406 in the year to May 2023. Total New Zealand goods exports for the year ended May 2023 were \$72.8b

<sup>2</sup> In the year to May 2023 New Zealand export returns for milk powder, AMF and butter exported under HS headings 0402 and 0405 were \$15.447b.

- the duty-free cheese quotas limiting export opportunities to just 0.3% of the EU cheese market.
- assesses the dairy market access outcomes of this agreement as only slightly easing the barriers to trade New Zealand dairy exporters face into the EU market and falling well short of a high-quality market access outcome (using the same criteria we applied when welcoming the UK FTA agreement as being high-quality);
- notes that concessions on GIs, and particularly the removal of the right to use the terms ‘feta’ and ‘gorgonzola’ will impact New Zealand cheese manufacturers’ business in both New Zealand and overseas, while providing an open door for European producers to further monopolise naming rights at the expense of large and small New Zealand cheesemakers;
- conditionally supports ratification of the agreement on the basis that current and future Governments continue to be ambitious in advancing dairy trade liberalisation both with the EU and more generally;
- supports the NZ Specialist Cheesemakers Association request for assistance to implement new names given the Agreement’s removal of New Zealand cheesemaker’s ability to use certain generic cheese terms;
- welcomes Minister O’Connor’s public comments that there is funding available via MPI to help support this transition for companies who are required to re-name and re-brand cheese products.
- highlights the role of high-quality trade agreements in providing critical options for exporters to diversity their customer bases and derive additional value from New Zealand milk particularly at times of increased geopolitical tensions, rising protectionism and nationalism; and
- highlights the inclusive benefits that continuing to bring down trade barriers for dairy delivers to across New Zealand regions and the economy as a whole.

## 2. About DCANZ

- 2.1 DCANZ welcomes the opportunity to submit on the international treaty examination of the EU NZ FTA.
- 2.2 DCANZ is a voluntary association for dairy manufacturing and exporting companies. DCANZ represents the common interests of its members on matters of public policy in New Zealand and internationally. Our 12 member companies collectively account for more than 98% of the milk processed in New Zealand and a vast majority of New Zealand’s dairy exports.

## 3. Assessment of EU-NZ FTA outcomes

- 3.1 DCANZ acknowledges the significant efforts of New Zealand officials to both securing and progressing an FTA negotiation with the EU. We place significant value on the work undertaken by our trade officials and government Ministers. DCANZ also acknowledges that the EU FTA has delivered good tariff elimination outcomes for the kiwifruit, onions, wine, and seafood sectors.
- 3.2 Notwithstanding this, DCANZ signalled its disappointment in the limited degree of market access liberalisation for dairy at the time the negotiation was concluded. This disappointment with the dairy outcomes remains today.

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<sup>3</sup> 36,000 mt at a quota of 95 Euro for butter.

## The EU-NZ FTA falls short against DCANZ criteria for evaluating FTA quality

- 3.3 DCANZ has a well-developed and regularly used set of criteria for evaluating market access outcomes from trade agreements. These include:
- Whether there is an end point of tariff elimination for all dairy products;
  - Whether there is a meaningful degree of new access opportunities during the implementation period (a useful reference point for agreements with largely closed markets is that 5% of the domestic market was considered the minimum access opening for the most sensitive products at the time of the WTO Uruguay Round);
  - Whether quotas or safeguards that are established for the most sensitive products are part of the transition to free trade and whether they have a high degree of usability by being absent of in-quota tariffs and by avoiding onerous import licencing requirements;
  - Whether the access accorded places New Zealand exporters on a level-access-footing with other exporters into the market.
- 3.4 These criteria were used in developing DCANZ’s submission to FADTC which welcomed the UK FTA as a very high-quality outcome, due to its rapid transition to complete and comprehensive tariff elimination. They are also our basis for registering disappointment with this Agreement, with the market set to remain largely closed for New Zealand dairy exporters even after full FTA implementation.
- 3.5 MFAT has assessed that, after full implementation of the Agreement, New Zealand’s evaluation of the FTA market access has highlighted that 97% of EU tariff lines will be subject to tariff elimination, and that the quota access for butter will equal 60% of the EU’s total current imports. Some additional context for these statistics is important to understanding the dairy access outcomes (and the disappointment expressed by DCANZ). More specifically:
- Butter, AMF, cheese, and milk powders, which delivered 25% of New Zealand goods export earnings in the year to May 2023<sup>4</sup>, account for less than 1% of EU tariff lines and will not benefit from tariff elimination. Nor will many high protein product exports.
  - The EU market is an extremely protected one and as a result imports are artificially low. In addition, the fact that New Zealand exporters will continue to be at a tariff disadvantage to both domestic competitors and to other exporters who enjoy duty free access (i.e., the UK) will impact quota utilisation potential.
- 3.6 The portion of the EU domestic market that will be accessible to New Zealand exporters on a duty-free basis is a more meaningful metric for evaluating market access outcomes. Our assessment is that:
- For cheese, the 31,031<sup>5</sup> tonnes of duty-free quota access opportunity (after 7 years) will equate to just 0.3% of the EU market.
  - For milk powder, AMF and butter the duty-free quota volume will be 0%, even once the FTA is fully implemented.

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<sup>4</sup> New Zealand exported \$18.422 billion of milk powder, butter, AMF, and cheese products under HS Headings 0402, 0405, and 0406 in the year to May 2023.

<sup>5</sup> 31,031 tonnes of duty-free cheese access is the aggregate access available under the WTO quota of 6,031 tonnes and the FTA quota which grows to 25,000 tonnes.

- When the milk powder quota reaches 15,000 tonnes after 7 years, it will equate to only 1.3% of the EU domestic market for milk powder (and a significantly lower portion of the EU market for whole milk solids noting there is a choice of either fluid milk or milk powder as an ingredient in the manufacturing of many products). In addition, New Zealand milk powder exports under this quota will be at a €238-€323 tariff disadvantage compared with imports from either the UK or Canada.
- In-quota tariffs will also impact upon the usability of the quotas for milkfat products (butter and AMF). The 36,000 tonnes that will be available for import with a tariff of €95 per tonne<sup>6</sup> equates to approximately 1.7% of the EU milkfat products market. However, New Zealand exports into the EU market at an in-quota tariff of €95 will still be at a tariff disadvantage to milkfat exports from the UK that occur duty-free.

3.7 Approximately € 23.8 million of in-quota tariffs would arise from full utilisation of the total year 7 milkfat<sup>7</sup> and milk powder<sup>8</sup> quota volumes. At current exchange rates this is over NZD\$40 million in tariffs.

3.8 Despite the limitations and challenges we describe above, DCANZ acknowledges that the outcomes do constitute an improvement in access arrangements to a highly developed and significant dairy market that New Zealand has been largely excluded from. We welcome the simplification of quota administration arrangements, which removes one of the previous hurdles to quota use. In addition to the new quota arrangements, new access opportunities may arise through the elimination of tariffs on other caseins, peptones, lactose, liquid cream, ice cream, retail infant formula, processed cheese, and blue cheese.

### **The outcome on Geographic Indications removes current trade and business opportunities for New Zealand cheese manufacturers**

3.9 DCANZ holds significant concerns about the outcomes of the FTA on Geographical Indications (GIs) for both commercial and policy/precedent reasons. DCANZ's position going into this negotiation was that protection for GIs should not be extended beyond Wines and Spirits and New Zealand policy settings should remain aligned to the international standard (in the WTO) for intellectual property/GIs. A particular concern for the New Zealand dairy industry has been that the EU has used its bilateral FTA agenda to clawback the use of common or generic dairy terminology. It has achieved this objective in the EU NZ FTA through New Zealand's agreement to extend and protect monopoly naming right for a number of generic cheeses to European producers alone.

3.10 Under the GIs outcome, New Zealand cheesemakers will lose access to the term 'feta' and 'gorgonzola' (after a transitional period) and, except for existing users who can access grandparenting arrangements, will lose the right to use the terms gruyere and parmesan. Options for New Zealand's innovative cheesemaking sector will be significantly limited by protection to a range of other generic cheese names not currently in wide production in New Zealand (e.g., provolone, fontina, asiago). The FTA also leaves industry in an uncertain environment by leaving open the door for European producers to seek protection for further GIs (as much as 30 a year). This places at risk cheese names in wide use in New Zealand, such as Havarti and Halloumi.

3.11 The removal of naming rights for feta, gorgonzola, gruyere, and parmesan will come at a serious cost to New Zealand industry, affecting small producers in particular. For this reason, DCANZ

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<sup>6</sup> After 7 years

<sup>7</sup> 62,177 tonnes across all components of the WTO and FTA quotas

<sup>8</sup> 15,000 tonnes

supports the call from the Specialist Cheesemakers Association for transitional assistance as the EU-NZ FTA is implemented. Costs to the industry are not limited to relabelling and rebranding, and will also include consumer awareness and marketing around changes to product lines in the absence of the use of well-recognised and longstanding cheese names. With appropriate support, opportunities to adopt and industry-wide process could ease the transition.

- 3.12 While New Zealand cheesemakers will shoulder the costs of GIs concessions in this negotiation, DCANZ has opposed the provision of the EU-NZ FTA which agrees that costs for operating a GIs regime will not be borne by EU producers. This is significantly out of step with the cost recovery basis of other elements of New Zealand's Intellectual Property and agriculture policy settings.
- 3.13 We note that New Zealand's concessions on GIs in this negotiation put New Zealand out of step with other significant dairy producing countries who have also opposed the expansionary EU GIs agenda – notably the US and Australia.

### Other FTA outcomes

- 3.14 DCANZ supports the agreement establishing high ambition on **Trade and Sustainability and Sustainable Food Systems**. DCANZ believes the Parties' approach to sustainability, including in the implementation of the agreement, should be clearly outcomes-focused, evidence-based and recognising of equivalence between our two regimes. We welcome further cooperation and dialogue with the EU and EU industry in these areas.
- 3.15 We welcome the inclusion of a special consultation mechanism on subsidies which provides for New Zealand to raise concerns about the use of agricultural subsidies. DCANZ has concerns about escalating levels of **trade distorting domestic support** and would welcome engagement with the EU under the FTA on this, particularly where practices in one party have a commercial impact on the other. A US study into the effects of EU use of intervention purchasing for SMP between 2015-2018 suggested a net cost to the New Zealand industry of \$0.28 cents per kg MS, or \$500m in lost income for the New Zealand economy. Working together to make advances in disciplining environmentally harmful subsidies in agriculture would help too.

## 4. DCANZ position on the agreement

- 4.1 The EU-NZ FTA must not be a precedent for New Zealand's trade liberalisation agenda and unfinished business should be a priority.
- 4.2 The EU-NZ FTA falls short of DCANZ's primary objectives for New Zealand's FTAs i.e., an end point of complete tariff elimination. EU dairy producers are among the most heavily subsidised in the world, and the EU is the world's largest dairy export economy. We have seen with the UK-NZ FTA, by comparison, the type of dairy market access outcome that should be expected in an FTA with a developed OCED economy. It dispels the myth that dairy should be treated as a sensitivity in markets who use border barriers as a mechanism to provide advantage to their own producers.
- 4.3 Despite the disappointing dairy outcome, DCANZ **conditionally supports** the ratification of the EU NZ FTA on the basis that:
- a. We recognise:
- The pathway of not ratifying the already signed agreement and attempting a re-negotiation is unlikely to yield a better outcome in a timelier way than an ambitious focus on upgrading the agreement;
  - There are good outcomes from the current agreement for some other sectors and there will be some improvements vs. the status quota for dairy access.

- b. We request that upon entry into force of the agreement significant effort is invested by the New Zealand Government to complete the job of putting New Zealand dairy exporters on a level playing field globally. As outlined earlier in this submission there are significant value returns at stake from doing so. These efforts should include actively seeking to upgrade the EU dairy market access outcomes. Built-in agendas and review clauses should be leveraged by New Zealand to aggressively pursue 'unfinished business' across all existing FTAs, where significant trade barriers for dairy remain.

## 5. Additional background and context relevant to our positions

### Importance of dairy trade liberalisation

- 5.1 The New Zealand dairy industry exports 95% of everything that it produces and high-quality trade agreements, particularly into Asian markets, have underpinned our ability to grow the value of these exports for the benefit of the wider NZ economy.
- 5.2 For example, the export returns **per kg** of milk solids produced in New Zealand have risen by 30% since the 2007 on a real value basis. During this period New Zealand exporters have benefited from significant new opportunities for duty free or very low tariff trade as a result of FTAs with China, the ASEAN countries, Singapore, Taiwan and Hong Kong, and the more incremental improvements for access achieved via CPTPP. There have also been WTO agreements to limit the trade distorting impacts of export subsidies during this period.
- 5.3 However, dairy remains amongst the most protected and distorted sectors in global trade. Despite New Zealand's current network of trade agreements, DCANZ estimates that markets accounting for 88% of dairy consumption continue to apply tariffs of more than 10% or impose major non-tariff barriers on New Zealand dairy product imports. Many developed country markets – EU, Japan, US, Canada – remain largely closed due to prohibitive tariffs.
- 5.4 As highlighted above, trade liberalisation is an important means for New Zealand to derive greater returns from the market for our dairy products and there is significant work still to be done to liberalise global dairy trade. A 2017 NZIER study found that if all global dairy tariffs were eliminated, and New Zealand's milk production held constant, the value of New Zealand dairy exports would increase by \$1.3 billion, generating a nominal GDP increase of \$1.03 billion.<sup>9</sup>
- 5.5 Trade liberalisation offers New Zealand dairy exporters a more diversified set of trade opportunities. It also deepens the global dairy market, allowing exporters a greater ability to navigate the disruptions that can occur from time-to-time, and lessening volatility.
- 5.6 Dairy trade liberalisation has been a longstanding priority for DCANZ and is also a goal of the industry-wide *Dairy Tomorrow* strategy. DCANZ strongly advocates for the strengthening of international trade rules and pursuit of agricultural market liberalisation through the WTO and bilateral/plurilateral trade and economic partnership agreements.
- 5.7 Increased geopolitical tensions and rising protectionism make comprehensive trade agreements even more important. This is particularly the case in high value markets where customers and consumers value our provenance, sustainability credentials and quality.

### Dairy exports' contribution to the New Zealand economy

- 5.8 The dairy exporting activities of our member companies are significant for the New Zealand economy, with dairy exports accounting for one in every three dollars New Zealand earned from

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<sup>9</sup> [Dairy-economic-contribution-update-FINAL-21-February-2017.pdf \(dcanz.com\)](#).

merchandised trade (and more than one in every four dollars from all goods and services trade) in the year to April 2023. The NZ\$25.7 billion of dairy products exported during this period supported more than NZ\$11 billion of direct value add to the New Zealand economy.

- 5.9 Dairy makes a significant contribution to economic activity across regional New Zealand, accounting for more than 5% of the GDP in 6 regions in the year to March 2023 (including 14.4% for the West Coast, 13.8% for Southland, 12% for Taranaki and 9% for Waikato). It provides fulfilling and diverse careers for over 50,000 people, mostly in New Zealand's regions and rural communities. New Zealand dairy jobs are well paying ones, with average wage levels for dairy farming and processing being higher than those in comparable industries. For example, there are 14 districts where Dairy accounts for more than 10% of total wages paid, including 44% of total wages paid in the Westland District, 41% for the South Taranaki district, 28% for Southland, and 24% for Matamata- Piako.
- 5.10 Revenue from dairy exports flows to every region in New Zealand. Dairy farming is a top 10 purchaser of output from 1/3<sup>rd</sup> of all other industries that represent 31.5% of GDP. Dairy processing is a top 10 purchaser in 1/4<sup>th</sup> of industries that represent 18.8% of GDP. For example, Dairy farming purchases supported \$383 million of GDP in the banking and finance sector and 1,323 related jobs, while the road transport and freight services purchasing of dairy processors supported \$450 million of GDP and 4,785 jobs.

### EU Market context

- 5.11 The EU is the world's largest dairy exporter. This position in global dairy trade would not be possible unless it had a globally competitive dairy sector. New Zealand and EU dairy exports compete in many markets globally and therefore arguments that the EU producers cannot compete against New Zealand product in their home market hold little credibility;
- 5.12 EU dairy producers are exposed to significant trade from within the EU internal market. When internal trade is counted it shows that in aggregate the 27 EU members countries imported more 4.43 million tonnes of cheese, 1.03 million tonnes of butter, and 1.76 million tonnes of milk powder in 2021. EU member countries are not sensitive to dairy imports, they just choose to largely restrict the sources of their large dairy import volumes to the disadvantage of New Zealand exporters.
- 5.13 Dairy tariff elimination for New Zealand exports would not be out of step with the dairy market access that the EU has already given to others. It's bilateral agreements with the UK and Canada feature comprehensive dairy tariff elimination, with no quantitative limits imposed by quotas. When a trading block has already fully liberalised its dairy market in other bilateral trade agreements (as the EU has done with the UK and with Canada) and is a significant exporter of dairy products (as the EU is), there is little basis for considering dairy trade sensitive.

## 6. Recommendation:

- 6.1 DCANZ recommends that the Committee:
- i. Note DCANZ's conditional support for ratification of the NZ EU Free Trade Agreement;
  - ii. Agree that the Government should be urged to seek to upgrade the Agreement, with a focus on market access outcomes for the dairy sector;
  - iii. Agree that this agreement should not be viewed as a precedent for New Zealand's future negotiations;
  - iv. Agree that the New Zealand Government should continue to aggressively pursue trade liberalising outcomes for dairy in its trade agenda, including upgrading existing FTAs through the use of built-in agendas and review clauses;

- v. Agree that adjustment support is provided to transition New Zealand industry towards the new naming regime for cheeses affected by the Geographical Indications outcome.